

ANNUAL EMPLOYER CERTIFICATION OF NON-CONTRIBUTING SERVICE PROVIDERS

Pursuant to [Kentucky Revised Statutes \(KRS\) 61.5991](#), beginning with Fiscal Year 2022 some Kentucky Employees Retirement System (KERS) Nonhazardous employers will be required to provide information to the Kentucky Public Pensions Authority (KPPA) on all persons who are not directly employed by the KERS Nonhazardous employer, and any persons employed directly by the employer who meet the definition of a regular full-time employee in accordance with [KRS 61.510\(21\)](#) and who are not being reported to the system in accordance with KRS 61.675. Categories of persons who are not directly employed include all persons providing services as an independent contractor, a leased employee (through a staffing company), or via any other employment arrangement, who if employed directly by the KERS Nonhazardous employer, would qualify as a regular full-time employee in accordance with KRS 61.510(21). [Form 6756 Annual Employer Certification of Non-Contributing Service Providers](#) and required documentation must be submitted by each of the following KERS Nonhazardous employers every fiscal year beginning with Fiscal Year 2022:

- Local and district health departments governed by KRS Chapter 212,
- State supported universities and community colleges,
- Mental health/mental retardation boards,
- Domestic violence shelters,
- Rape crisis centers,
- Child advocacy centers, and
- Any other nonhazardous employer that is eligible to voluntarily cease participation in the KERS as provided by KRS 61.522.
(Collectively referred to as “employers”.)

EXCEPTIONS

There are only two (2) exceptions to reporting all persons not directly employed by the employer on the Form 6756. The first exception is for original contracts (renewals are not included in the exception) entered into prior to January 1, 2021 for any person or company to provide services to the employer as an independent contractor, leased employee (through a staffing company), or via another other employment arrangement besides direct employment.

The second exception is for contracts for professional services that have not historically been provided by the employees of the employer. This exception applies only if the professional services have never been performed by direct employees of the employer from the date of the employer’s participation in KERS through June 30, 2021, and the professional services were performed for the employer under a contract submitted to the KPPA (or, prior to April 1, 2021, the Kentucky Retirement Systems) and determined by the KPPA (or, prior to April 1, 2021, the Kentucky Retirement Systems) to represent services provided by an independent contractor.

If an employer is not sure whether it is required to submit Form 6756 to the KPPA, or has questions about whether an exception to reporting all persons not directly employed by the



employer applies, the employer should contact its Employer Reporting, Compliance, & Education (ERCE) representative for assistance at 1-888-696-8810. If in doubt, the KPPA recommends including the persons on this form.

NONCOMPLIANCE

An employer's failure to correctly submit this information may result in negative consequences to the employer and the person certifying this form. Employers do not have discretion as to whether or not to submit this information to the KPPA as it is required by law. Before signing, employers should review the [certification](#) to understand the consequences for failing to submit complete, accurate information on this form and in accompanying documentation. Within sixty (60) days following the close of the fiscal year, the KPPA is required to provide extensive data on the response it has received from all affected employers to the State Budget Director and the General Assembly, including any employer's noncompliance or failure to respond.

KPPA REVIEW AND DETERMINATION

KPPA will compile and review all information to make a determination as to whether any person reported on this form should be reported to the KPPA as a regular full-time employee.

If it is determined that any person should be reported to the KPPA as a KERS regular full-time employee, the employer will be required to begin reporting the person as an employee (including ensuring the employee contributions are remitted to the KPPA) and pay employer contributions in accordance with KRS 61.675 effective July 1, 2021 (but not prior to that date). In other words, the employer must take over responsibility for the payroll of those persons deemed by KPPA to be employees for as long as they are providing services to or for the employer. It is not possible for an independent contractor, staffing agency, or other third party to retain payroll responsibilities for these employees while they are continuing to provide services to or for the employer.

However, if KPPA determines that a person or persons providing services to or for an employer through an independent contractor agreement, third party, staffing company, or other non-participating entity is independent and therefore not an employee of the employer, then for the fiscal year in question, these persons do not have to be brought onto the payroll of the employer, and reporting of information and contributions in accordance with KRS 61.675 is not required.

GENERAL ASSEMBLY SUBSIDIES

Please be advised KRS 61.5991(6) states that for Fiscal Year 2023 and after, the General Assembly intends to provide subsidies to the KERS Nonhazardous employers subject to these requirements that meet the required ratio of employees to independent contractors/leased employees/etc. KPPA compiles this information for the consideration of the General Assembly and the State Budget Director, but is not involved in determining the allocation of any subsidies. You can read more about these subsidies in [KRS 61.5991](#) and in [House Bill 8](#) (2021 Regular Session).